



CFN 2004R0300711
DR Bk 22248 Pgs 4238 - 4249; (12pgs)
RECORDED 04/28/2004 10:35:00
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

A/2

This instrument was prepared by:
Name: Graham Penn
Address: Bercow and Radell, P.A.
200 S. Biscayne Boulevard, Suite 850
Miami, Florida 33131

(Space reserved for Clerk)

COVENANT RUNNING WITH THE LAND IN LIEU OF UNITY OF TITLE

KNOW ALL BY THESE PRESENTS that the undersigned Owner hereby makes, declares and imposes on the land herein described, these easements and covenants running with the title to the land, which shall be binding on the Owner, all heirs, successors and assigns, personal representatives, mortgagees, lessees, and against all persons claiming by, through or under them;

WHEREAS, Owner holds the fee simple title to the land in Miami-Dade County, Florida, described in Exhibit "A," attached hereto and made a part hereof, hereinafter called the "Property," which is supported by the attorney's opinion attached.

WHEREAS, Owner intends to develop said Property for Business, Residential, Office, and any other lawful use.

WHEREAS, Owner wants to assure Miami-Dade County that the integrity of the large scale development will be built in accordance with proffered plans consistent with Section 33-31 of the Code of Miami-Dade County, and

WHEREAS, Owner intends to develop the buildings on the Property for sale to multiple owners or in a condominium or multi-condominium or association or multi-association format of ownership and/or in two or more phases, and

WHEREAS, Owner may wish to convey portions of the Property from time to time, and may wish to offer units as condominiums, this instrument is executed in order to assure that the phased development of the Property with future multiple ownership, will not violate the Zoning Code of Miami-Dade County.

Section-Township-Range: 35-54-40
Folio numbers: 30-4035-021-0031
30-4035-021-0038

MR

(Space reserved for Clerk)

NOW THEREFORE, in consideration of the premises, Owner hereby agrees as follows:

1. This agreement on the part of the Owner shall constitute a covenant running with the land and will be recorded, at Owner's expense, in the public records of Miami-Dade County, Florida, and shall remain in full force and effect and be binding upon the heirs, successors and assigns of the respective parties hereto, until such time as the same is released in writing as hereinafter provided.
2. The Property will be developed in substantial conformity with the site plan entitled "Downtown Dadeland," prepared by Spillis Candela DMJM and dated stamped received by Miami-Dade County December 4, 2002, consisting of a total of forty-one (41) pages. No modification shall be effected in said site plan without the written consent of the then owner(s) of the Property, and the Department of Planning and Zoning.
3. If the Property is developed in phases, each phase will be developed in substantial accordance with the site plan.
4. Each phase, or stage of development, when standing independently or in conjunction with existing, developed, contiguous phases or stages, shall meet all zoning requirements. This section shall not be subject to a request for a variance or modification.
5. Downtown Dadeland Master Association, Inc. (the "Master Association") has been or will be created for the Property as a master association that shall provide for the maintenance of all common areas, roadways, cross-easements and other amenities common to the entire parcel of the Property to the extent provided in the Declaration of Covenants, Restrictions and Easements for Downtown Dadeland ("Declaration for Downtown Dadeland"). This shall not preclude individual condominiums or associations for each phase or stage from maintaining their own buildings or their own common areas so long as said associations and condominiums, or members thereof, are members of the master association and each such condominium or association (or its members) are required hereby, to be members of the master association.
6. In the event of multiple ownership subsequent to said site plan approval, each of the subsequent owners, mortgagees and other parties in interest shall be bound by the terms, provisions and conditions of this instrument. All such subsequent owners, mortgagees and other parties shall also be bound by the easements and reservations provided in the Declaration for Downtown Dadeland.
7. As provided in the Declaration for Downtown Dadeland, the Owner shall provide for permanent and safe access for pedestrian and vehicular traffic within the development and

- particularly for right of access for fire, police, health, sanitation and other public service personnel vehicles. The streets or accessways shall be installed and maintained by the Owner including, but not limited to, sidewalks, drainage facilities, water, sewers and fire hydrants, meeting with the approval of the Planning and Zoning Director and the Public Works Director.
8. As further part of this agreement, it is hereby understood and agreed that any official inspector of Miami-Dade County, or its agents duly authorized, may have the privilege at any time during normal working hours of entering and investigating the use of the premises to determine whether or not the requirements of the building and zoning regulations and the conditions herein agreed to are being complied with.
 9. The provisions of this instrument shall become effective upon their recordation in the public records of Miami-Dade County, Florida, and shall continue in effect for a period of thirty (30) years after the date of such recordation, after which time they shall be extended automatically for successive periods of ten (10) years each, unless released in writing by the then Owner or Owners of the Property and the Director of the Department of Planning and Zoning, acting for and on behalf of Miami-Dade County, Florida, upon the demonstration and affirmative finding that the same is no longer necessary to preserve and protect the Property for the purposes herein intended. Notwithstanding the foregoing, from and after the recordation of the Declaration for Downtown Dadeland, in lieu of requiring each Owner and his or her mortgagees to execute an instrument of release, said instrument shall instead only need to be executed by an officer of the Master Association after a duly noticed meeting held in accordance with the bylaws of the Master Association, as well as the Director of the Department of Planning and Zoning, acting for and on behalf of Miami-Dade County, Florida.
 10. The provisions of this instrument may be amended, modified or released by a written instrument executed by the then Owner or Owners of the Property, with joinders by all mortgagees, if any, provided same is also approved by the Director of the Department of Planning and Zoning. Should this Declaration of Restrictive Covenants be so amended, modified or released, the Director of the Department of Planning and Zoning, or his successor, shall forthwith execute a written instrument effectuating and acknowledging such amendment, modification or release. Notwithstanding the foregoing, from and after the recordation of the Declaration for Downtown Dadeland, in lieu of requiring each Owner and his or her mortgagees to execute an instrument of amendment, said instrument shall instead only need to be executed by an officer of the Master Association after a duly noticed meeting held in accordance with the bylaws of the Master Association, as well as the Director of the Department of Planning and Zoning, acting for and on behalf of Miami-Dade County, Florida.
 11. Enforcement shall be by action against any parties or persons violating or attempting to violate any covenants. The prevailing party to any action or suit pertaining to or arising out

Covenant Running with the Land
in Lieu of Unity of Title

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(Space reserved for Clerk)

- of this instrument shall be entitled to recover, in addition to costs and disbursements, allowed by law, such sum as the Court may adjudge to be reasonable for the services of his attorney. This enforcement provision shall be in addition to any other remedies available at law, in equity or both.
12. Invalidation of any of these covenants by judgment of Court shall not affect any of the other provisions, which shall remain in full force and effect. However, if any material portion is invalidated, the County shall be entitled to revoke any approval predicated upon the invalidated portion.
 13. This instrument shall be recorded in the public records of Miami-Dade County at the Owner's expense.
 14. All rights, remedies and privileges granted herein shall be deemed to be cumulative and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other additional rights, remedies or privileges.
 15. In the event of a violation of this instrument, in addition to any other remedies available, Miami-Dade County is hereby authorized to withhold any future permits, and refuse to make any inspections or grant any approval, until such time as this instrument is complied with.

[Execution Pages Follow]

Section-Township-Range: 35-54-40
Folio numbers: 30-4035-021-0031
30-4035-021-0038

(Space reserved for Clerk)

Signed, witnessed, executed and acknowledged on this 15th day of April, 2004.

IN WITNESS WHEREOF, **Downtown Dadeland Residential Condominiums, LLC** has caused these presents to be signed in its name by its proper officials.

Witnesses:



Signature

Daniel I. Millman

Print Name



partner



Signature

Peter Houghton

Print Name

By: Canyon-Johnson Urban Fund, L.P.,
a Delaware limited partnership, its manager

By: Canyon-Johnson Realty Advisors, L.P.,
a Delaware limited liability company, its general

By: Canyon Capital Realty Advisors LLC,
a Delaware limited liability company
an authorized member

By: 
(Managing Director)

Print Name: K. Robert Turner

Witnesses:



Signature

Daniel I. Millman

Print Name



Signature

Peter Houghton

Print Name

By: Johnson Canyon Holdings, LLC
a California limited liability company
an authorized member

By: 
(Managing Director)

Print Name: Kenneth T. Lombard

(Space reserved for Clerk)

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

The foregoing instrument was acknowledged before me by K. Robert Turner, the Managing Director of **Canyon Capital Realty Advisors LLC**, on behalf of the LLC. He is personally known to me or has produced _____, as identification.

Witness my signature and official seal this 15th day of April, 2004, in the County and State aforesaid.

Elizabeth M. Aguilera
Notary Public-State of California
Elizabeth M. Aguilera
Print Name

My Commission Expires: January 12, 2006



STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

The foregoing instrument was acknowledged before me by Kenneth T. Lombard, the Managing Director of **Johnson Canyon Holdings, LLC**, on behalf of the LLC. He is personally known to me or has produced _____, as identification.

Witness my signature and official seal this 15th day of April, 2004, in the County and State aforesaid.

Elizabeth M. Aguilera
Notary Public-State of California
Elizabeth M. Aguilera
Print Name

My Commission Expires: January 12, 2006



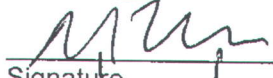
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**JOINDER BY MORTGAGEE
Limited Directorship**

The undersigned Canyon-Johnson Urban Fund, L.P., a California Limited Directorship and Mortgagee under that certain first mortgage from Downtown Dadeland Residential Condominiums, LLC dated the 19th day of December, 2003, and recorded in Official Records Book 21929, Page 1986, of the Public Records of Miami-Dade County, Florida, and that certain second mortgage from Downtown Dadeland Residential Condominiums, LLC dated the 19th day of December, 2003, and recorded in Official Records Book 21929, Page 2019, of the Public Records of Miami-Dade County, Florida covering all/or a portion of the property described in the foregoing agreement, does hereby acknowledge that the terms of this agreement are and shall be binding upon the undersigned and its successors in title.

IN WITNESS WHEREOF, these presents have been executed this 15th day of April, 2004.

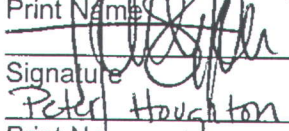
Witnesses:



Signature

Daniel D. Millman

Print Name



Signature

Peter Houghton

Print Name

Canyon-Johnson Urban Fund, L.P.

Address:
9665 Wilshire Boulevard, Suite 200
Beverly Hills, CA 90212

By Canyon-Johnson Realty Advisors, L.P.
a Delaware limited liability company, its
general partner

By: Canyon Capital Realty Advisors LLC,
a Delaware limited liability company, an
authorized member

By: 

(Managing Director)

Print Name: K. Robert Turner

(Space reserved for Clerk)

Witnesses:



Signature

Daniel Hollman

Print Name




Signature

Peter Houghton

Print Name

By: Johnson Canyon Holdings, LLC
a California limited liability company
an authorized member

By: 

(Managing Director)

Print Name: Kenneth T. Lombard

(Space reserved for Clerk)

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

The foregoing instrument was acknowledged before me by K. Robert Turner, the Managing Director of **Canyon Capital Realty Advisors LLC**, on behalf of the LLC. He is personally known to me or has produced _____, as identification.

Witness my signature and official seal this 15th day of April, 2004, in the County and State aforesaid.

Elizabeth M. Aguilera
Notary Public-State of California
Elizabeth M. Aguilera
Print Name

My Commission Expires:



STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

The foregoing instrument was acknowledged before me by Kenneth T. Lombard, the Managing Director of **Johnson Canyon Holdings, LLC**, on behalf of the LLC. He is personally known to me or has produced _____, as identification.

Witness my signature and official seal this 15th day of April, 2004, in the County and State aforesaid.

Elizabeth M. Aguilera
Notary Public-State of California
Elizabeth M. Aguilera
Print Name

My Commission Expires:



EXHIBIT "A"
Legal Description

Parcel 1:

Portions of Tract "C" of PALMETTO-KENDAL HEIGHTS, Plat Book 70 at Page 47 of the Public Records of Miami - Dade County, Florida, being more particularly described as follows:

Commence at the NE corner of Tract "C" of PALMETTO-KENDAL HEIGHTS, Plat Book 70 at Page 47 of the Public Records of Dade County, Florida.; Thence South 4 degrees 11 minutes 23 seconds East, along the East line of the said Tract "C" for a distance of 3.0 feet to a point on the South right-of-way line of North Kendal Drive; Thence South 85 degrees 27 minutes 47 seconds West, along the south right-of-way of North Kendal Drive for a distance of 723.27 feet to a point on the West line of the Florida State Road Department Easement shown in the said Tract "C" and the point of beginning of the parcel of land herein described; Thence continue South 85 degrees 27 minutes 47 seconds West, along the South right-of-way line of North Kendal Drive for a distance of 330.00 feet; Thence South 4 degrees 32 minutes 13 seconds East for a distance of 400.00 feet; Thence North 85 degrees 27 minutes 47 seconds East for a distance of 327.72 feet to a point on the West line of the said Florida State Road Department Easement; Thence North 4 degrees 12 minutes 37 seconds West along the West line of the said Florida State Road Department Easement for a distance of 400.01 feet to the point of beginning.

Parcel 2:

A portion of Tract "C" of PALMETTO-KENDAL HEIGHTS, Plat Book 70 at Page 47 of the Public Records of Miami - Dade County, Florida, being more particularly described as follows:

Commence at the NE corner of Tract "C" of PALMETTO-KENDAL HEIGHTS, Plat Book 70 at Page 47 of the Public Records of Miami - Dade County, Florida; Thence South 4 degrees 11 minutes 23 seconds East, along the East line of the said Tract "C" for a distance of 3.0 feet to a point on the south right-of-way line of North Kendal Drive; Thence South 85 degrees 27 minutes 47 seconds West, along the South right-of-way line of North Kendal Drive for a distance of 1,053.27 feet; Thence South 4 degrees 32 minutes 13 seconds East for a distance of 400.00 feet to the point of beginning of the parcel of land herein described; Thence continue south 4 degrees 32 minutes 13 seconds East for a distance of 200.00 feet; Thence North 85 degrees 27 minutes 47 seconds East for a distance of 326.58 feet to a point on the West line of the Florida State Road Department Easement shown in the said Tract "C"; Thence North 4 degrees 12 minutes 37 seconds West, along the West line of the said Florida State Road Department Easement, for a distance of 200.00 feet to a point which is located 400.00 feet South of, as measured at right angles to, the South right-of-way line of North Kendal Drive; Thence South 85 degrees 27 minutes 47 seconds West for a distance of 327.72 feet to the point of beginning.

Parcel 3:

A portion of Tract "C" of PALMETTO-KENDAL HEIGHTS, according to the plat thereof recorded in Plat Book 70, at Page 47 of the Public Records of Miami - Dade County, Florida described as follows:

Commence at the NE corner of Tract "C" PALMETTO-KENDAL HEIGHTS according to the plat thereof recorded in Plat Book 70, at Page 47 of the Public Records of Miami - Dade County, Florida; Thence run South 4 degrees 11 minutes 23 seconds East along the East line of said Tract "C" for a distance of 3.0 feet to a point on the South right-of-way of North Kendal Drive; Thence run South 85 degrees 27 minutes 47 seconds West along the South right-of-way line of North Kendal Drive for a distance of 723.27 feet to the point of beginning of the parcel of land herein described; Thence run South 4 degrees 12 minutes 37 seconds East for a distance of 600.01 feet to a point; Thence run North 85 degrees 27 minutes 47 seconds East for a distance of 25 feet to a point; Thence run North 4 degrees 12 minutes 37 seconds West for a distance of 600.01 feet to a point on the South right-of-way of North Kendal Drive; Thence run South 85 degrees 27 minutes 47 seconds West along said south right-of-way line of North Kendal Drive a distance of 25 feet to the point of beginning.

ALL LESS

A portion of Tract "C" of PALMETTO-KENDAL HEIGHTS, according to the plat thereof recorded in Plat Book 70 at Page 47 of the Public Records of Miami - Dade County, Florida, lying in the NW 1/4 of Section 2, Township 55 South, Range 40 East, Dade County, Florida, being more particularly described as follows:

Commence at the Northeast Corner of said Tract "C"; Thence run South 02 degrees 10 minutes 35 seconds East along the East line of said Tract "C" for a distance of 3.00 feet to the point of intersection with the Southerly right-of-way line of North Kendal Drive (S.W. 88th Street); Thence run South 87 degrees 28 minutes 50 seconds West along the Southerly right-of-way line of North Kendal Drive (S.W. 88th Street) for a distance of 1053.27 feet to the Point of Beginning of the herein described parcel; Thence run South 02 degrees 31 minutes 10 seconds East for a distance of 600.00 feet to the point of intersection with a line that is 600.00 feet South of and parallel with the Southerly right-of-way line of North Kendal Drive (S.W. 88th Street); Thence run North 87 degrees 28 minutes 50 seconds East along the line that is 600.00 feet south of and parallel with the Southerly right-of-way line of North Kendal Drive (S.W. 88th Street) for a distance of 19.62 feet to a point; Thence run North 02 degrees 31 minutes 10 seconds West for a distance of 236.06 feet to the curvature of a circular curve to the left; Thence run Northerly along the arc of said circular curve to the left, having a radius of 1944.86 feet, through a central angle of 03 degrees 32 minutes 49.3 seconds, for an arc distance of 120.40 feet to the point of reverse curvature of a circular curve to the right; Thence run Northerly along the arc of said circular curve to the right, having a radius of 1874.86 feet, through a central angle of 03 degrees 32 minutes 49.3 seconds, for an arc distance of 116.07 feet to a point; Thence run North 02

degrees 31 minutes 10 seconds West along a line tangent to the previously described curve for a distance of 102.62 feet to the point of curvature of a circular curve to the right; Thence run Northeasterly along the arc of said circular curve to the right, having a radius of 25.00 feet, through a central angle of 90 degrees 00 minutes 00 seconds, for an arc distance of 39.27 feet to the point of tangency with the Southerly right-of-way line of North Kendal Drive (S.W. 88th Street); Thence run South 87 degrees 28 minutes 50 seconds West along the Southerly right-of-way line of North Kendal Drive (S.W. 88th Street) for a distance of 37.30 feet to the Point of Beginning.

Parcel 4:

A portion of Tract "C", of PALMETTO-KENDAL HEIGHTS, according to the Plat thereof, recorded in Plat Book 70 at Page 47, of the Public Records of Miami - Dade County, Florida, lying in the NW 1/4 of Section 2, Township 55 South, Range 40 East, Dade County, Florida, being more particularly described as follows:

Commence at the Northeast corner of said Tract "C"; thence run S 04° 11'23" E along the East line of said Tract "C" a distance of 3.00 feet to the point of intersection with the Southerly Right-of-Way line of North Kendal Drive (S.W. 88th Street); thence run S 85° 27'47" W along the Southerly Right-of-Way line of North Kendal Drive (S.W. 88th Street) a distance of 1,053.27 feet to a point; thence S 04° 32'13" E a distance of 600.00 feet to a point; thence N 85° 27'47" E a distance of 19.62 feet to the Point of Beginning of the parcel of land herein described; thence continue N 85° 27'47" E a distance of 357.07 feet to a point on the Easterly line of the W 1/2 of the E 1/2 of the NE 1/4 of the NW 1/4 of Section 2, Township 55 South, Range 40 East; as shown on the aforesaid plat of PALMETTO-KENDAL HEIGHTS, Plat Book 70 Page 47; thence S 04° 12'37" E along the said Easterly line of said W 1/2, E 1/2, NE 1/4, NW 1/4, of Section 2, Township 55 South, Range 40 East, a distance of 122.58 feet to a point; thence run S 44° 13'23" E a distance of 50.00 feet of a point of intersection with the Northwestern Right-of-Way line of the Florida East Coast (F.E.C.) Railway; thence run S 45° 46'37" W along the Northwestern Right-of-Way line of said F.E.C. Railway a distance of 480.45 feet to a point of intersection with a nontangent curve concave to the right, having a radius of 442.46 feet and a central angle of 20° 26'00", said curve also being the Easterly Right-of-Way line of DADELAND BOULEVARD, as recorded in Road Plat Book 101, Page 18 of the Public Records of Miami - Dade County, Florida; thence run Northwesternly along the arc of said curve a distance of 157.88 feet to the point of compound curvature of a circular curve to the right having a radius of 1,874.86 feet and central angle of 04° 04'00"; thence run Northwesternly along the arc of said curve a distance of 133.07 feet to the point of reverse curvature of a circular curve to the left having a radius of 1,944.86' and a central angle of 04° 04'00"; thence run Northwesternly along the arc of said curve a distance of 138.04 feet to a point of tangency; thence run N 04° 32'13" W a distance of 43.94 feet to the Point of Beginning subject to all conditions, restrictions and easements of records; the last described four courses being the Easterly Right-of-Way of Dadeland Boulevard.